

### **REMARKS/ARGUMENTS**

In the specification, the paragraphs [0055] and [0070] have been amended to correct an erroneous reference number in each paragraph. An erroneous reference number 43 in paragraph [0055] has been changed to "54" and an erroneous reference number 157 has been changed to "156" in paragraph [0070]. In paragraphs 1 and 2 of the office action, the drawings were objected to based on the designations for the reference numbers 43 and 157. It is submitted that the drawings were correct and that the mistake was in typographical errors in paragraphs [0055] and [0070] of the specification. In view of the correction of these paragraphs, withdrawal of these objections is requested.

In paragraph 3 of the office action, the drawings were objected to for failure to show several reference numbers. Reference numbers were mistakenly omitted from Figs. 30 and 31 of the drawings. A replacement page 15 of the drawings is submitted herewith with the reference numbers added. In view of the amendment to Figs. 30 and 31 of the drawings, withdrawal of the objection is requested.

Claims 1-11 remain in this application. Claims 1 and 7 have been amended. The preamble of claim 1 has been amended to make it clear that the invention is for a cushion so that it is consistent with the preamble in dependent claims 2-4. Claim 5 has been amended to specify that the cushion is removably attached to the rim of the mask body. Claim 8 has been amended to correct by changing "said inflatable tube" to "said inflatable chamber" to provide a correct antecedent.

Claim 7 erroneously stated that the pump was mounted in both a pump opening and a valve opening in the body. Claim 7 has been corrected to state that the "pressure release valve is removably mounted in a valve opening in said body". In view of this amendment, it is submitted that claim 7 and dependent claims 9 and 10 are now definite and are supported by the specification. In view of the amendment to claim 7, it is requested that the rejection under 35 U.S.C. §112, first paragraph be withdrawn.

Applicants respectfully traverse the rejection of claims 1-6, 8 and 11 under 35 U.S.C. §102(b) as being anticipated by Demi patent 4,513,741. Demi is directed to a mask for receiving and sealing to the snout of an animal. The mask includes what is referred to as a resilient muzzle 10 which receives the animal's snout. A pump 46 is used to inflate a chamber 23 to form an inflated cuff 29 which seals around the animal's snout. There is no disclosure in Demi of at least partially filling the cuff 29 with a resilient open cell foam, as asserted in the office action. The term "foam" does not appear anywhere in the Demi patent. The muzzle 10 is permanently attached to the pump 46 and to vent valve 47 to form a mask without the need for any additional components. There is no separate mask and the muzzle, pump and valve are not removably attached to a mask.

Claim 1 specifically claims a cushion for removably attaching to a nasal mask. Since there is no disclosure in Demi of a cushion capable of being removably attached to a nasal mask, claim 1 and dependent claims 2-4 clearly are not anticipated by Demi. Nor does Demi have any need for a mask, since its apparatus is complete in and of itself.

Claim 2 specifies that the inflatable chamber is at least partially filled with a resilient open cell foam. Demi does not teach filling its cuff 29 with a foam. Accordingly, claim 2 also is not anticipated by Demi.

Claim 5 and dependent claims 6-10 are directed to a nasal mask including a body having an opening adapted to receive a user's nose and a separate cushion removably attached to a rim of the body. The cushion includes a permanently connected pump and a permanently connected vent valve. The office action asserts that references 11, 12 are the body and that references 23, 29 are the cushion. It is submitted that references 23, 29 point to integral parts of the element labeled with references 11, 12 and that they are not "attached" to a rim as required by the claims. There is no way of removing the inflatable cuff 29 from the elements 11, 12. Now

will the pump and the vent valve be permanently connected to the cuff 29 if it could be removed. Accordingly, claim 5 is not anticipated by Demi.

Claims 6 specifies that the cushion is at least partially filled with a resilient open cell foam material. Since Demi fails to disclose placing foam or any other material other than a fluid in its cuff 29, these claims are not anticipated.

Claim 8 specifies that the pump includes a resilient dome. It is submitted that the Demi pump is a ball and not a dome as required in claim 8.

The office action incorrectly asserts that element 10 of Demi is a body having a rim 12, 11 and the inflatable chamber 23, 29 is a cushion assembly which is removably attached to the body. It is submitted that the inflatable cuff 29 is an integral component of the muzzle 10. If it were removed from the muzzle 10 by cutting away with a knife, it would no longer be inflatable and it could not be reattached. Further, the Demi pump and valve are not capable of being removed from the muzzle 10 as a unit with the inflatable cuff 29. Claim 11 specifically requires a nasal mask including a body having a rim, and a cushion assembly removably attached to the body to extend around the rim. The cushion assembly includes not only an inflatable chamber, but also a manually operated pump and a valve. Since the pump and valve are components of the cushion assembly, they are removable from the body rim along with the inflatable chamber. Since there is no teaching of such a mask or cushion assembly in Demi, claim 11 clearly is not anticipated and the rejection should be withdrawn.

Since claim 7, 9 and 10 were not rejected over prior art. In view of the amendment to claim 7 and the above stated reasons as to why claims 5 and 6 are allowable, it is believed that these claims are allowable.

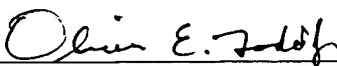
In view of the above comments, withdrawal of the rejection of claims 1-6,8 and 11 under 35 U.S.C. §102(b) is requested.

On June 28, 2004, applicant's undersigned attorney filed an Information Disclosure Statement in this application. Although the Information Disclosure

Statement shown in the application file history in the PAIR record, it does not appear to have been considered in preparing the December 15, 2004 office action. It is requested that the application records be revised to show that the Information Disclosure Statement has been considered by the examiner.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

By   
Oliver E. Todd, Jr.  
Reg. No. 24,746

Enclosure

MacMillan, Sobanski & Todd, LLC  
One Maritime Plaza  
Fourth Floor  
720 Water Street  
Toledo, Ohio 43604

(419) 255-5900  
Fax (419) 255-9639  
email [todd@mstfirm.com](mailto:todd@mstfirm.com)

### **Amendments to the Drawings**

The attached sheet 15 of drawings includes changes to Figs. 30 and 31. In Figs. 30 and 31, previously omitted reference numbers has been added.

Attachment: Replacement Sheet

Annotated Sheet Showing Changes

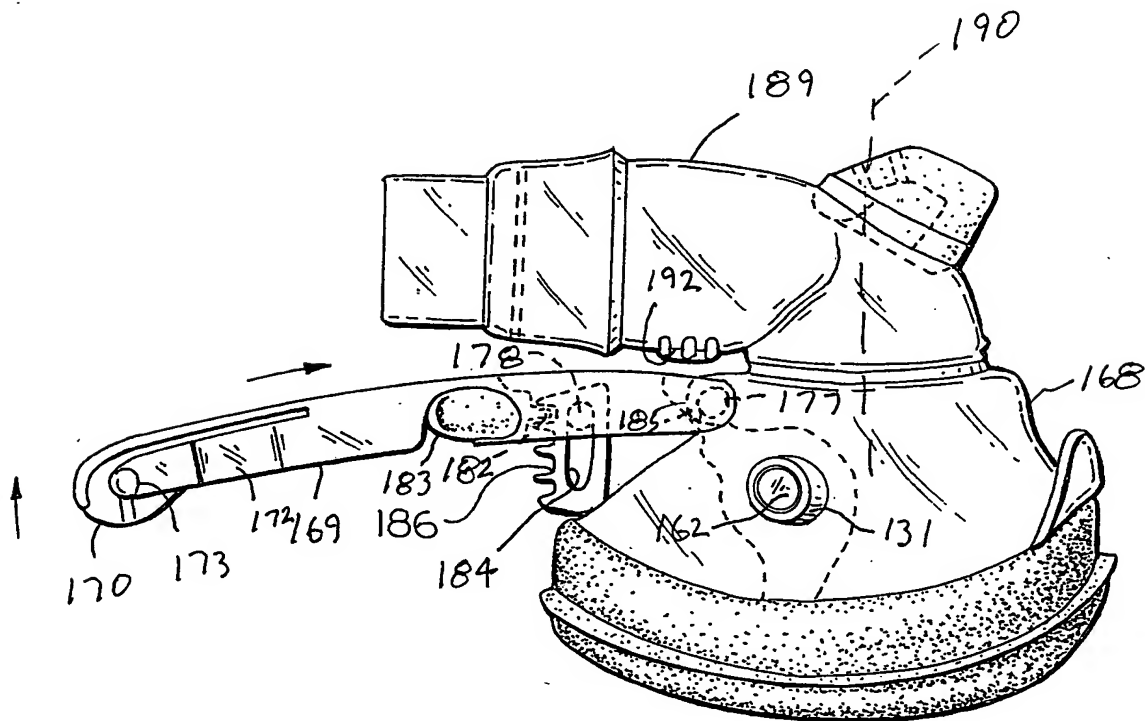


FIG. 30

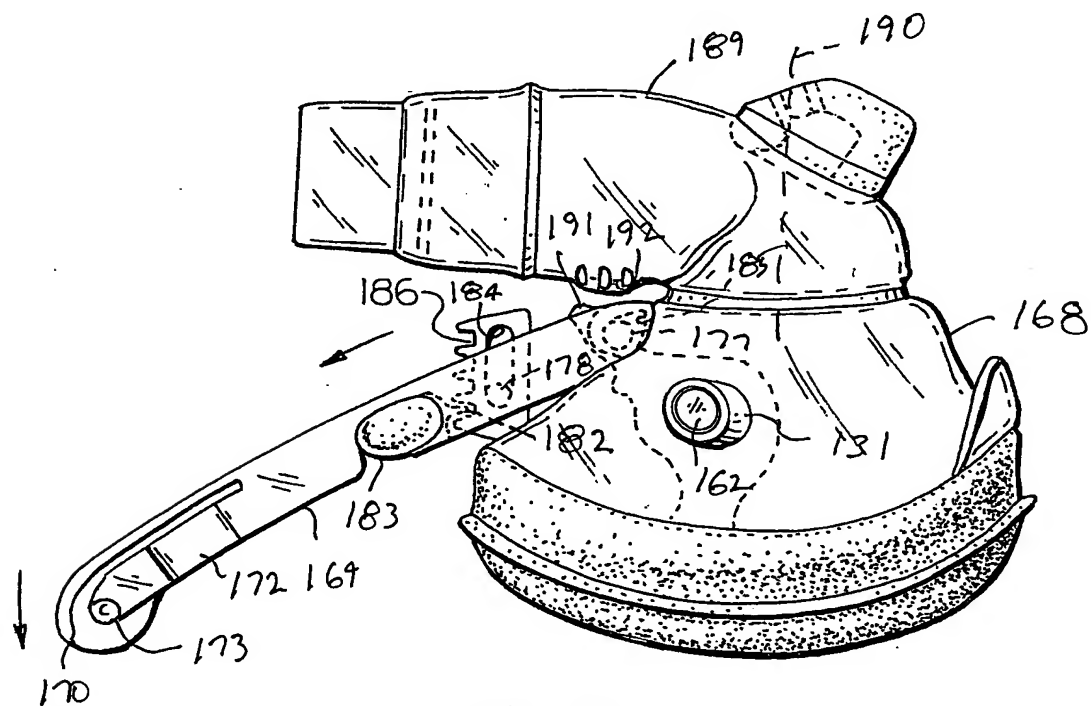


FIG. 31